

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN W. MARKHAM,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE ARMY, *et al.*,

Defendants.

CASE NO. 3:25-cv-05212-BHS

REPORT AND RECOMMENDATION

Noting Date: May 16, 2025

The District Court has referred Plaintiff John W. Markham's pending Motion to proceed *in forma pauperis* ("IFP") to United States Magistrate Judge Grady J. Leupold pursuant to Amended General Order 05-25. On March 13, 2025, Plaintiff filed a Proposed Complaint, request to appoint counsel, and IFP Motion, that is, to proceed without paying the filing fee for a civil case. *See* Dkts. 1, 1-1; 4, 4-1.

In his IFP Motion, Plaintiff indicates he is currently employed with a net monthly salary of \$1,500.00. Dkt. 4 at 1. In the past twelve months, Plaintiff has also received \$8,000.00 additional income from rent, interest or dividends. *Id.* Plaintiff has no cash on hand, but \$29,000.00 in a checking account and \$6,000.00 in a savings account. *Id.* at 2. He owns property,

1 including a home with his sister and a vehicle, with a total value of \$190,000.00. *Id.* His monthly
2 expenses amount to \$1,900.00. *Id.*

3 After a review of the IFP Motion, the Court determined that Plaintiff appears to have
4 funds to pay the \$405.00 filing fee for this matter. Dkt. 5 at 2. As a result, the Court issued an
5 Order directing Plaintiff to show cause on or before May 1, 2025, why his IFP Motion should not
6 be denied. Dkt. 5. In the alternative, the Court informed Plaintiff that he may pay the \$405.00
7 filing fee before that date. *Id.* Finally, the Court warned Plaintiff that failure to show cause or pay
8 the filing fee shall be deemed a failure to properly prosecute this matter and the Court would
9 recommend dismissal of the case. *Id.*

10 Plaintiff filed a response to the Order on April 14, 2025. Dkt. 6. In the response, Plaintiff
11 asks the Court to consider his IFP Motion, “not isolated in terms of initial filing fees, but in
12 connection to the motion to appoint *pro bono* counsel & overall cost to litigate a legitimate case
13 against the Dept. of the Army.” *Id.* at 1.

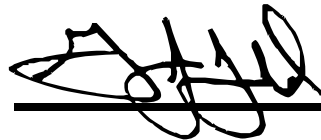
14 The Court will not consider Plaintiff’s IFP Motion together with his proposed request for
15 the appointment of counsel. Rather, the District Court has referred Plaintiff’s IFP Motion to this
16 Court only to make the threshold determination of whether Plaintiff is unable to pay the \$405.00
17 filing fee. *See* Amended General Order 05-25. While the Court recognizes Plaintiff has filed a
18 proposed Motion for the appointment of *pro bono* counsel in this case (*see* Dkt. 1-1), that
19 proposed Motion is not before this Court.

20 Because Plaintiff appears to have the financial means to pay the Court’s filing fee, the
21 Court recommends that his Motion for leave to proceed IFP (Dkt. 4) be **DENIED**.

22 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties
23 shall have fourteen (14) days from service of this report to file written objections. *See also* Fed.
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1 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of
2 *de novo* review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can result in a waiver of
3 those objections for purposes of appeal. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985); *Miranda*
4 *v. Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations omitted). Accommodating the time
5 limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **May 16,**
6 **2025**, as noted in the caption.

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8 Dated this 2nd day of May, 2025.

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11 Grady J. Leupold
12 United States Magistrate Judge
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